

Federal

Subject: Disadvantaged Business Enterprise (DBE) Program

Information: Transit agencies will be notified in writing by the Passenger Transportation Division (PTD) when their annual federal funding reaches \$250,000 or more. It is a U. S. DOT requirement, under the DBE Program, that any transit agency that receives federal funds resulting in \$250,000 or more of contracting opportunities, must establish a DBE Plan/Goal.

If a transit agency that we initially contact, determines that it will not have \$250,000 of contracting opportunities in their federal funds, it will not be required to establish a DBE Plan/Goal. However, it will be required to comply with the “Good Faith Efforts” portion of the DBE Program.

This portion of the DBE Program requires the transit agency to track and document all good faith efforts made to encourage participation of DBE firms in any contracting opportunity. Attached to this procedure is Exhibit 1 which includes the following:

Good Faith Efforts Form
DBE Attachment - List of DBE Contractors/Vendors and Type of
Services/Products Provided
Definitions

Exhibit 1 will be included in the notification from PTD to the transit agency that it will not need to create a DBE Plan/Goal. The forms in Exhibit 1 must be completed annually until the federal funds containing the opportunities are expended and kept on file by the transit agency for three years after the funds are expended. These forms must be made available to PTD and to the Federal Transit Administration (FTA), if requested, for FTA’s Triennial Audit of MDOT/PTD’s transit programs/funding, or for any other audit.

If it has been determined and agreed to, by PTD and the transit agency, that the contracting opportunities do amount to \$250,000 or more, the transit agency will need to establish a DBE Plan/Goal. This plan will remain in effect until all contracting opportunity funds are expended.

This plan must be submitted to your Project Manager for review and approval. A sample DBE plan has been made available by the U.S.

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Department of Transportation on the Internet at:

<http://osdbuweb.dot.gov/business/dbe/index.html>

Once you are at this site you will need to scroll down to the section entitled "Guidance For DBE Program Administrators." Scroll down further until you get to the item labeled "Sample DBE Program." Click on this item and it will take you to the sample DBE program.

For purposes of this requirement, DBE firms are defined as only those firms that have been certified under the provisions outlined in "49 CFR, Part 26, - Participation By Disadvantaged Business Enterprises in Department of Transportation Programs." The following website address will take you to the directory of DBE firms compiled by the MDOT/Office of Equal Opportunity (OEO).

http://www.mdot.state.mi.us/contractors/contractor_directories

Actions Needed:

- Upon notification by PTD that your transit agency may need to establish a DBE Plan/Goal, respond in writing with the information requested within 40 days from the date of the notification. Failure to respond will result in withholding of funds until a response is received.
- If it is determined that your transit agency will not have at least \$250,000 of contracting opportunities, you will not be required to establish a DBE Plan/Goal. You will be required to track and document all "good faith efforts" made to encourage participation by DBE firms in any contracting opportunities. Please complete the above-mentioned "Exhibit I" forms and keep in transit agency files for possible future reference or audit.
- If it is determined that your transit agency will have \$250,000 or more in contracting opportunities, a letter will be sent to you from PTD, requesting that a DBE Plan/Goal be established in accordance with federal guidelines and submitted to your Project Manager for review and approval.

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- The DBE Plan/Goal is due 40 days after the date on the letter notifying you of this determination. Failure to submit this document will result in withholding of funds until it is submitted.
- Upon approval of your DBE Plan/Goal by the Passenger Transportation Division, you will receive an approval letter that will provide you with the DBE Quarterly Reporting Forms. You will be required to submit these quarterly reporting forms until your federal funds containing the contracting opportunities are all expended. Quarterly reports are due 40 days after the end of each quarter. Failure to submit quarterly reports will result in withholding of funds until the reports are received.
- The DBE Plan/Goal and the quarterly reports must be kept on file by the transit agency for three years after the federal funds containing the contracting opportunities have been expended. These documents must be made available to PTD and to the FTA if requested for FTA's Triennial Audit of MDOT/PTD's transit programs/funding, or for any other audit.

Contact: If you have any questions on this procedure, please contact your Project Manager.

Approved:

Signed By: Kim Johnson

Acting Division Administrator

11/15/2002

Date

Attachment: Exhibit 1

PTD:PAS:FMU:JB

EXHIBIT 1

GOOD FAITH EFFORTS FORM

Provide a description of your Good Faith Efforts to:

- 1. Identify contracting opportunities which could be performed by DBEs:**
- 2. Analyze the availability of DBEs to provide products or services identified as contracting opportunities:**
- 3. Locate DBEs locally and in other geographic areas:**
- 4. Hold pre-solicitation or pre-bid meetings to inform DBEs of contracting opportunities:**
- 5. Advertise in minority-focused media:**
- 6. Follow-up leads or solicitations of interest by DBEs and provide assistance:**
- 7. Use the services of available resource groups that provide assistance in the recruitment of DBEs:**

FTA DEFINITIONS

DBE (Disadvantaged Business Enterprise)

A small business concern:

1. Which is at least 51 percent owned by one or more socially and economically-disadvantaged individuals, or in the case of a publicly-owned business, 51 percent of the stock which is owned by socially and economically-disadvantaged individuals.
2. The management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Socially and Economically Disadvantaged Individual

1. Member(s) of one of the presumptive minority groups designated in 49 CFR, Part 26 including Women, Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and Asian Indian Americans, and is so regarded by that particular minority community.
2. Individual(s) found to be socially and economically disadvantaged under the 8(a) program of the Small Business Administration (SBA) and granted an 8(a) certification.
3. Individual(s) who, although not a member of a presumptive minority group as designated in 49 CFR, Part 26, establishes social and economic disadvantage based on identification with another group.

Contracting Opportunity

Any decision by a recipient or contractor to institute a procurement action to obtain a product or service commercially (as opposed to intergovernmental actions).

Non-Contracting Opportunity

This would include such items as overhead, self-insurance, taxes, and force account work. Funds for purchase of transit vehicles and property acquisition should be included in this category. (Transit revenue vehicles are reported to FTA by transit vehicle manufacturers.)

Construction

Includes new construction, rehabilitation, modernization of physical facilities, demolition, paving, fencing, excavation, grading, plumbing, painting, electrical work, plastering, carpentry, roofing and sheet metal work, structural and rebar steel erection, and glazing.

Professional Services

Includes architecture, engineering, land surveying, accounting, auditing, medical, janitorial, legal services, marketing and transit management.

Materials, Supplies, Equipment

Includes fuel, stationery, paper, pencils, typewriters, word processors, computers, bus washers, coin counting machines, fareboxes, lathes, machinery (this does not include transit revenue vehicles).

Other

Includes any category of contracting and procurement which is not identified elsewhere, e.g., purchases of bus/van service, vehicle maintenance, etc.